

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

VINH Q. NGUYEN,

Defendant.

NO. CR19-091RAJ

PROTECTIVE ORDER

This matter, having come to the Court's attention on the parties' joint motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

1. **Protected Material.** For purposes of this Order, "Protected Materials" shall include (1) Grand Jury testimony; (2) financial information, subscriber information (including phone and utility subscriber information for third parties) and other personal identifying information ("PII")¹ obtained during the investigation, either via Grand Jury subpoena and/or during the execution of search warrants; (3) other personal information about defendants and third parties, including but not limited to photographs (including

¹ "PII" includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes full names, dates of birth, Social Security numbers (or other identification information), financial account information (including account numbers), tax information, driver's license numbers, addresses, telephone numbers, locations of residences or employment, medical records, school records, juvenile criminal records, and other confidential information. The government has endeavored to redact PII as appropriate, but the parties acknowledge and agree that this will not always be possible, and that in some instances un-redacted PII may be necessary to the defense.

1 sexually suggestive photographs of family members, defendants and/or witnesses) and other
2 sensitive information obtained from the search of social media, cellular telephones and other
3 digital devices seized during the investigation (collectively, the “Protected Material”). All
4 Grand Jury transcripts, cellular telephone downloads, financial records, and summaries of
5 financial records provided during discovery will be considered Protected Material without
6 further designation by the Government.

7 2. Other information believed by the Government to be Protected Material will be
8 so designated by the Government. Said material may include, but is not limited to, criminal
9 history reports for defendants and/or prospective government witnesses and related *Giglio*
10 impeachment materials.

11 3. **Production of Protected Material to the Defense.** The United States will
12 make available copies of the Protected Materials, including those filed under seal, if any, to
13 defense counsel to comply with the government’s discovery obligations. Possession of
14 copies of the Protected Materials is limited to Defendant’s attorneys of record, and
15 investigators, paralegals, law clerks, experts and assistants for the attorneys of record
16 (hereinafter collectively referred to as “members of the defense team”). Further, the
17 attorneys of record are required, prior to disseminating any copies of the Protected or
18 Sensitive Materials to members of the defense team, to provide a copy of this Protective
19 Order to members of the defense team, and obtain written consent by members of the
20 defense team of their acknowledgment to be bound by the terms and conditions of this
21 Protective Order. The written consent need not be disclosed or produced to the United States
22 unless requested by the Assistant United States Attorney and ordered by the Court.

23 4. **Review of Protected Material by Defendants.** The attorneys of record and
24 members of Defendant’s defense team may share and review the Protected Material with the
25 Defendant. Defendant is detained at the Federal Detention Center (FDC) and will be
26 permitted to review the Protected Material, consistent with the regulations established by the
27 BOP, with or without their respective counsel in a controlled environment at the Federal
28

1 Detention Center (FDC), but will be prohibited from printing out, copying, or disseminating
2 the discovery.

3 **5. Limits on Dissemination of Protected Materials.** The attorneys of record
4 and members of the defense team acknowledge that providing copies of the Protected
5 Material to the Defendant and other persons is prohibited, and agree not to duplicate or
6 provide copies of the Protected Material to the Defendant and other persons. This order does
7 not limit employees of the United States Attorney's Office for the Western District of
8 Washington from disclosing the Protected Material to members of the United States
9 Attorney's Office, federal law enforcement agencies, witnesses and to the Court and defense
10 as necessary to comply with the government's discovery obligations.

11 **6. Future Production of Additional Protected Materials.** Additional types of
12 discovery items may be deemed by the parties to constitute Protected Material upon
13 agreement, or (if no agreement can be reached) by further order of the Court.

14 **7. No Waiver.** Nothing in this order should be construed as imposing any
15 substantive discovery obligations on the government that are different from those imposed
16 by case law and Rule 16 of the Federal Rules of Criminal Procedure. The failure to
17 designate any materials as provided in paragraph 2 shall not constitute a waiver of a party's
18 assertion that the materials are covered by this Protective Order.

19 **8. Use of Protected Material in Court.** Any Protected or Sensitive Material that
20 is filed with the Court in connection with pre-trial motions, trial, or other matter before this
21 Court, shall be filed under seal and shall remain sealed until otherwise ordered by this Court.
22 This does not entitle either party to seal their filings as a matter of course. The parties are
23 required to comply in all respects with the relevant local and federal rules of criminal
24 procedure pertaining to the sealing of court documents.

25 **9. Non-Termination.** The provisions of this Order shall not terminate at the
26 conclusion of this prosecution. Furthermore, at the close of this case, defense counsel shall
27 return the Protected Material, including all copies of the Protected Material, to the office of
28 the United States Attorney, or otherwise certify that the material has been destroyed.

1 10. **Violation of Order.** Any person who willfully violates this order may be held
2 in contempt of court and may be subject to monetary or other sanctions as deemed
3 appropriate by this Court.

4 11. **Modification of Order.** Nothing in this Stipulation shall prevent any party
5 from seeking modification of this Protective Order or from objecting to discovery that it
6 believes to be otherwise improper. The parties agree that in the event that compliance with
7 this Order makes it difficult for defense counsel to adhere to their Sixth Amendment
8 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel shall
9 bring any concerns about the terms of the Order to the attention of the government. The
10 parties shall then meet and confer with the intention of finding a mutually acceptable
11 solution. In the event that the parties cannot reach such a solution, defense counsel shall
12 have the right to bring any concerns about the scope or terms of the Order to the attention of
13 the Court by way of a motion.

14 12. **No Ruling on Discoverability or Admissibility.** This Protective Order does
15 not constitute a ruling on the question of whether any particular material is properly
16 discoverable or admissible and does not constitute any ruling on any potential objection to
17 the discoverability of any material.

18 13. **No Ruling on Timing of Production.** This Protective Order does not require
19 the Government to provide particular discovery at a time or in a fashion inconsistent with
20 applicable law.

21
22 DATED this 5th day of December, 2019.

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25 The Honorable Richard A. Jones
26 United States District Judge